

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION) MDL No. 1:13-md-2419-RWZ
)
THIS DOCUMENT RELATES TO:)
)
Case No. 1:14-cv-13510-RWZ)
)

**FINAL ORDER APPROVING WRONGFUL DEATH DISTRIBUTIONS AND
APPROVING AND CONFIRMING THE ABIGAIL NICHOLE DEPOY SPECIAL
NEEDS TRUST INSTRUMENT, AND DISMISSING THE CASE WITH PREJUDICE**

Petitioner Sharon W. Bishop, Executor of the Estate of Kathy W. Sinclair, deceased, by counsel, pursuant to Va. Code § 8.01-55, requests the Court's entry of an order approving the distribution of Settlement Proceeds among the Statutory Beneficiaries and others as reflected in their Petition for Final Approval of Distribution of Wrongful Death Settlement Proceeds Pursuant to Va. Code § 8.01-55 (the "Petition"), and approving and confirming the Trust Instrument establishing the Abigail Nichole Depoy Special Needs Trust.

Upon consideration of the Petition, the Agreement Regarding Distribution of Settlement Proceeds, and for good cause shown, the Court finds and orders the following:

1. The Court has previously approved the underlying settlement of the Petitioner's claims, subject only to a final order regarding distribution of the settlement proceeds. The Petitioner's claims under applicable settlement agreements have been processed, and funds have been awarded to Petitioner for payment to the Statutory Beneficiaries, subject to applicable attorney fees, costs and expenses, and liens.

2. The Statutory Beneficiaries have reached an independent agreement as to how the settlement proceeds should be distributed after payment of attorney fees, costs and expenses, and liens. The agreement of the Statutory Beneficiaries is attached to the Petition as Exhibit B thereto, and is hereby confirmed and approved. The Court hereby finds the attorney fees and expenses, to be paid as ordered below, to be fair and reasonable under the circumstances of this case.

3. The Petitioner has received final payment letters from two entities with valid and enforceable liens against the settlement proceeds; to wit, the Virginia Department of Medical Assistance Services (Virginia Medicaid) and Carilion Clinic, which provided healthcare services to the Petitioner's decedent prior to her death. The amounts of those liens are the following:

- a. Virginia Medicaid: \$96,794.80
- b. Carilion Clinic: \$30,000.00

4. A special needs trust has been established for the benefit of Abigail Depoy, one of the Statutory Beneficiaries. A copy of the trust instrument for the Abigail Nichole Depoy Special Needs Trust is attached to the Petition as Exhibit C thereto. The Court finds that the Abigail Nichole Depoy Special Needs Trust is an appropriate trust to receive the net proceeds of the settlement for the benefit of Abigail Depoy. The Trust instrument, a copy of which has been filed with the Court, is APPROVED and CONFIRMED.

Approval of the disbursal of settlement proceeds will result in funds being deposited directly into the Abigail Depoy Special Needs Trust; accordingly, the Court hereby ORDERS that, prior to the transfer of funds into the Abigail Depoy Special Needs Trust, the trustee of such trust shall duly qualify with the Clerk of the Circuit Court for the County of Roanoke, Virginia and give bond, with surety in the amount of \$218,876.31.

5. The Tort Trustee is hereby ordered to make distribution of the settlement proceeds as follows:

a. To Crandall & Katt and Sharon W. Bishop, Executor of the Estate of Kathy W. Sinclair, deceased: \$760,468.92, this amount to be further apportioned by Crandall & Katt as follows:

- (i) \$391,738.09 to Crandall & Katt in payment of its attorney fees;
- (ii) \$23,059.72 to Crandall & Katt in payment of its expenses associated with this case;
- (iii) \$96,794.80 to the Virginia Department of Medical Assistance Services, in payment of its lien;
- (iv) \$30,000.00 to Carilion Clinic in payment of its lien;
- (v) \$218,876.31 to Marybeth Depoy in payment of her portion of the proceeds as Statutory Beneficiary.

b. To the Abigail Nichole Depoy Special Needs Trust, c/o Crandall & Katt, counsel for the Petitioner: \$218,876.31, this amount to be deposited directly into the Abigail Depoy Special Needs Trust after confirmation that the trustee thereof has posted the necessary bond with surety as ordered herein.

6. The Petitioner's lawsuits against any and all defendants in the settlements are hereby DISMISSED WITH PREJUDICE, with all parties bearing their own costs and expenses.

ENTER, this _____ day of June, 2017.

United States District Court Judge

I request entry of this order:

/s/Patrick T. Fennell
Patrick T. Fennell, VSB 40393
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